

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES V. FRAZIER,

Defendant.

ORDER

10-cv-732-bbc

06-cr-221-bbc

Defendant James Frazier has filed a notice of appeal. Although the notice is unsigned and indicates that he is appealing from an order entered on the "3 day of 3, 2011," I am assuming that defendant wishes to appeal the February 9, 2011 order and February 11, 2011 judgment denying his § 2255 motion and denying a certificate of appealability.

Defendant's notice of appeal was not accompanied by the \$455 fee for filing an appeal. 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22. Therefore, I construe it as including a request for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915. According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without

Copy of this document has been
provided to: Defendant
this 25 day of March, 2011
by S. Vogel
S. Vogel, Secretary to
Judge Barbara B. Crabb

further authorization “unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Defendant was found financially eligible for court-appointed counsel (although he refused to accept representation) and I am not prepared to certify that his appeal is not taken in good faith. A reasonable person could find that the appeal has some merit. Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

ORDER

IT IS ORDERED that defendant James Frazier’s request for leave to proceed in forma pauperis on appeal is GRANTED. His request for a certificate of appealability was previously denied.

Entered this 9th day of March, 2011.

BY THE COURT:

Barbara B. Crabb
BARBARA B. CRABB
District Judge